

COUNTY OF YORK

2002

LEGISLATIVE PROGRAM



BOARD OF SUPERVISORS

James S. Burgett, Chairman

Donald E. Wiggins, Vice Chairman

Walter C. Zaremba

Sheila S. Noll

COUNTY ADMINISTRATOR

James O. McReynolds

COUNTY ATTORNEY

James E. Barnett

Prepared by the Office of the County Attorney

INTRODUCTION

The Board of Supervisors is pleased to commend this Legislative Program for consideration by the 2002 General Assembly. It was adopted and endorsed by the Board on November 20, 2001, by Resolution R01-185.

The Program is in two parts. Part I requests specific legislation to address the needs of York County. Part II outlines certain general legislative policies on which the Board believes our delegation should focus. With the support of our legislators, I know that our County government will be improved and the quality of life for our citizens will be enhanced.

If, during the course of the session, our legislators have questions concerning the position of the County on legislative matters, they are encouraged to contact James O. McReynolds, our County Administrator, at 890-3320, or James E. Barnett, our County Attorney, at 890-3340, who would be pleased to respond to any questions that you might have with regard to the legislation proposed.

James S. Burgett, Chairman
Board of Supervisors

BOARD OF SUPERVISORS
COUNTY OF YORK
YORKTOWN, VIRGINIA

Resolution

At a regular meeting of the York County Board of Supervisors held in the Board Room, York Hall, Yorktown, Virginia, on the ____ day of _____, 2001:

Present

Vote

James S. Burgett, Chairman
Donald E. Wiggins, Vice Chairman
Walter C. Zaremba
Sheila S. Noll
H. R. Ashe

On motion of _____, which carried ____, the following resolution was adopted:

A RESOLUTION APPROVING THE COUNTY'S 2002 LEGISLATIVE PROGRAM

WHEREAS, because of the applicability of Dillon's Rule in Virginia, York County is dependent upon the General Assembly to adopt specific enabling legislation in many instances in order to enable the County to provide efficient and effective services and government to its citizens; and

WHEREAS, the County has developed a Legislative Program for the consideration of the 2002 session of the General Assembly which outlines certain legislative policies which the Board believes ought to guide the General Assembly and proposes certain legislation that would benefit the County; and

WHEREAS, the Board has carefully considered its legislative program, and believes that it is in the best interests of the citizens of York County;

NOW, THEREFORE, BE IT RESOLVED by the York County Board of Supervisors this ____ day of _____, 2001, that this Board hereby approves the County's 2002 Legislative Program, and commends it to the County's representatives in the General Assembly for action.

BE IT FURTHER RESOLVED that copies of this Resolution and the County's 2002 Legislative Program be forwarded to the County's elected representatives to the General Assembly.

PART I

SUMMARY OF LEGISLATION REQUESTED BY THE COUNTY

1. INCREASE FUNDING FOR THE STATEWIDE TRANSPORTATION REVENUE SHARING PROGRAM
2. RESTORE THE \$13.4 MILLION FOR ROUTE 17 IMPROVEMENTS DELETED FROM THE CURRENT VIRGINIA TRANSPORTATION DEVELOPMENT PLAN
3. AMEND VIRGINIA CODE § 59.1-274 TO ALLOW THE ESTABLISHMENT OF AT LEAST ONE ENTERPRISE ZONE IN EVERY COUNTY OR CITY
4. RESUBMIT SB 1345 AND HB 1650 (2001 GENERAL ASSEMBLY) TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PERFORM NECESSARY DRAINAGE REPAIRS
5. AMEND CODE OF VIRGINIA TO AUTHORIZE LOCAL DIRECTORS OF EMERGENCY MANAGEMENT TO CONTROL AND REGULATE TRAFFIC FLOWS OVER PUBLIC RIGHTS OF WAY AND TO PROVIDE SANCTIONS FOR ANYONE WHO DISREGARDS A PROPER ORDER OR DIRECTIVE ISSUED BY A LOCAL DIRECTOR OF EMERGENCY MANAGEMENT
6. INCREASE THE AMOUNT OF THE RETIREE HEALTH INSURANCE CREDIT FOR LOCAL AND SCHOOL BOARD EMPLOYEES
7. ACTIVELY SEEK STATE FUNDING FOR A NEW PIER TO BE BUILT IN TIME FOR THE YORKTOWN 2006 AND JAMESTOWN 2007 CELEBRATIONS
8. AUTHORIZE A DEMONSTRATION TRAFFIC SIGNAL PHOTO-MONITORING SYSTEM

9. AMEND VIRGINIA CODE § 46.2-1094 TO ALLOW ENFORCEMENT OF ADULT SEATBELT REQUIREMENT AS A PRIMARY OFFENSE
10. AMEND VIRGINIA CODE § 15.2-3306 TO PROHIBIT ANNEXATION PETITIONS FROM BEING FILED BY CITIES AS LANDOWNERS AGAINST COUNTIES WHICH HAVE OBTAINED COURT ORDERED IMMUNITY FROM ANNEXATION
11. AMEND VIRGINIA CODE § 58.1-3700.1 RELATIVE TO BUSINESS LICENSES TO CLARIFY THAT A BUSINESS LICENSE ISSUED WITH RESPECT TO ANY CALENDAR YEAR IS DEEMED TO REMAIN VALID UNTIL MARCH 1 OF THE FOLLOWING YEAR
12. THE COMMONWEALTH SHOULD INCREASE ITS SUPPORT FOR VIRGINIA'S TOURISM INDUSTRY

PART II

SUMMARY OF LEGISLATIVE POLICIES

1. INCREASE STATE FUNDING TO LOCALITIES FOR NEW AND EXISTING STATE MANDATED PROGRAMS.
2. INCREASE STATE FUNDING OF THE TRUE COSTS OF EDUCATION.
3. OVERHAUL THE COMMONWEALTH'S TAX STRUCTURE.
4. MAXIMIZE STATE FUNDING FOR PRIORITY REGIONAL TRANSPORTATION PROJECTS IN HAMPTON ROADS.
5. MAKE CHANGES TO STATE PROGRAMS THAT ENHANCE THE EFFECTIVENESS OF PUBLIC EXPENDITURES - DON'T INCREASE LOCAL RESPONSIBILITIES AND SHIFT THE COST WHILE AT THE SAME TIME REDUCING STATE SERVICES AND FUNDING.

PART I

***SUMMARY OF
LEGISLATION REQUESTED
BY THE COUNTY***

INCREASE FUNDING FOR THE STATEWIDE TRANSPORTATION REVENUE SHARING PROGRAM

The Transportation Revenue Sharing Program is a 50/50 matching program which allows the Commonwealth to double its transportation dollars by allowing counties needing specific highway improvements to commit non-State funding as a match. Given the limited transportation funding available, this seems to be a good leveraging of State assets.

York County has made good use of this program. Some examples of recent County projects funded through this program are:

- Construction of sidewalks along Second Street and Richmond Road
- Opticon Remote Control System for control of traffic signals during emergencies
- Yorktown Shoreline Stabilization (Yorktown Creek Vicinity)
- Landscaping at Route 199—Mooretown Road Interchange
- Route 17 Asphalt Overlay

The revenue sharing program is currently funded at \$15 million annually, with no increase over the last several years. We request that this be increased to \$20 million annually.

RESTORE THE \$13.4 MILLION FOR ROUTE 17 IMPROVEMENTS DELETED FROM THE CURRENT VIRGINIA TRANSPORTATION DEVELOPMENT PLAN

The Virginia Transportation Development Plan adopted by the Commonwealth Transportation Board in October 2000 includes a project to widen Route 17 from the Coleman Bridge to Route 105 to six lanes. Prior to the 2000 plan, the project was identified as costing \$37,405,000, with \$31,670,000 having been accumulated for the project through previous funding allocations. The 2000 plan however, shows the cost of the project reduced to \$18,603,000, with accumulated allocations of \$18,282,000. The County and VDOT have now mutually agreed to reduce the scope of the established project and to transfer any cost savings to complete improvements to the more heavily congested southern segments of Route 17 (i.e., south of Route 105). However, the \$13,388,000 deleted from the project in the 2000 Transportation Development Plan should also be restored to the project so that it can be added to any "cost savings" transferred to the southern segments. We request that necessary legislation be adopted to restore full funding to the project so that the southern portion of Route 17 in York County can also be improved.

AMEND VIRGINIA CODE § 59.1-274 TO ALLOW THE ESTABLISHMENT OF AT LEAST ONE ENTERPRISE ZONE IN EVERY COUNTY OR CITY

The Virginia Enterprise Zone Act (Virginia Code § 59.1-270, *et seq.*) authorizes the Department of Housing and Community Development to designate as many as 60 enterprise zones throughout the State. Any county, city, or town is eligible to apply for one or more enterprise zone designations, although no locality may have more than three enterprise zones. At present, no enterprise zone is located in York County, and all 60 zones have either been designated or the criteria for application exclude York County.

As presently drafted, Virginia Code § 59.1-274 establishes economic criteria for any enterprise zone. For the most part, any area for which designation is sought as an enterprise zone must either (i) have 25% or more of the population with incomes below 80% of the median income of the jurisdiction, or (ii) have an unemployment rate 1.5 times the state average, or (iii) have a demonstrated floor area vacancy rate of industrial and/or commercial properties of 20% or more. However, five of any areas designated as enterprise zones on or after July 1, 1999 must have annual average unemployment rates that are 50% higher than the final statewide average unemployment rate for the most recent calendar year, or be within planning districts that have annual average unemployment rates that are at least 1% greater than the statewide average. Legislation adopted by the 2000 General Assembly, which increased the number of authorized enterprise zones from 55 to 60, required that the additional five zones designated after July 1, 2000 shall be in localities that have annual average unemployment rates that are 50% higher than the statewide average.

At present, there are no designated economic opportunity zones in York County, although portions of the County meet the original criteria for an enterprise zone (but not those heightened requirements imposed in 1999 and 2000 for certain of the zones to be established during or after those years). Nonetheless, the enterprise zone concept, which provides for a number of tax exemptions for new businesses, could provide an important economic incentive for the creation of new businesses in York County as in any jurisdiction. Consequently, we support the amendment of Virginia Code § 59.1-274 to increase the number of enterprise zones authorized in Virginia from 60 to 70, with the additional zones being awarded only to localities that do not already have a zone, and without the high unemployment rate criteria applicable to zones created after July 1, 1999. Legislation to that effect was adopted in 2001 by the House of Delegates as H.B. 2007, but was not reported out of the Senate Finance Committee. We ask that it be reintroduced in 2002, with the House amendments shown as attached.

Proposed amendment of § 59.1-274 relating to enterprise zones.

§ 59.1-274. Enterprise zone designation.

A. The governing body of any county, city or town may make written application to the Department to have an area or areas declared to be an enterprise zone. Such application shall include a description of the location of the area or areas in question, and a general statement identifying proposed local incentives to complement the state and any federal incentives. Two or more adjacent jurisdictions may file a joint application for an enterprise zone lying in the jurisdictions submitting the application.

B. The Governor may approve upon the recommendation of the Director of the Department the designation of up to ~~sixty~~ seventy areas, of which five shall be designated as provided in subsection C and five shall be designated as provided in subsection D, as enterprise zones for a period of twenty years. Any county, city, or town shall be eligible to apply for more than one enterprise zone designation; however, each county, city, and town shall be limited to a total of three enterprise zones. One enterprise zone in any county, city or town may consist of two noncontiguous zone areas; however, a joint enterprise zone may consist of the joint zone area and one additional noncontiguous zone area in each of the adjacent jurisdictions that submitted the application for the joint enterprise zone. The size of the enterprise zone shall consist of the total of the noncontiguous zone areas. The noncontiguous zone areas shall not be considered as separate zones for the purpose of calculating the maximum number of zone designations established by this chapter. Any such area shall consist of contiguous United States census tracts or block groups or any part thereof in accordance with the most current United States Census or with the most current data from the Center for Public Service or the local planning district commission. Any such area seeking designation as an enterprise zone shall also meet at least one of the following criteria: (i) have twenty-five percent or more of the population with incomes below eighty percent of the median income of the jurisdiction, (ii) have an unemployment rate 1.5 times the state average, or (iii) have a demonstrated floor area vacancy rate of industrial and/or commercial properties of twenty percent or more.

C. Five of the areas designated as enterprise zones on or after July 1, 1999, shall be located in localities that (i) have annual average unemployment rates for the most recent calendar year that are fifty percent higher than the final statewide average unemployment rate for the most recent calendar year or (ii) are within planning districts that have annual average unemployment rates for the most recent calendar year that are at least one percent greater than the final annual statewide average for the most recent calendar year. No area shall be designated as an enterprise zone pursuant to this subsection unless it also meets all the other eligibility criteria established pursuant to this chapter.

D. Five of the areas designated as enterprise zones on or after July 1, 2000, shall be located in localities that have annual average unemployment rates for the most recent

calendar year that are fifty percent higher than the final statewide average unemployment rate for the most recent calendar year. No area shall be designated as an enterprise zone pursuant to this subsection unless it also meets all the other eligibility criteria established pursuant to this chapter.

E. Ten of the areas designated as enterprise zones on or after July 1, 2001, shall be located in localities that do not currently have an enterprise zone. No area shall be designated as an enterprise zone pursuant to this subsection unless it meets the eligibility criteria established in subsection B.

RESUBMIT SB 1345 AND HB 1650 (2001 GENERAL ASSEMBLY) TO REQUIRE THE DEPARTMENT OF TRANSPORTATION TO PERFORM NECESSARY DRAINAGE REPAIRS

Particularly in low-lying areas such as York County, stormwater drainage constitutes a critical problem, and even minor lapses in routine maintenance and repair of drainage ditches and driveway culverts can result in significant localized flooding. Unfortunately, however, when ditches, culverts, and other drainage facilities within the jurisdiction of the Department of Transportation become impaired, VDOT's response has often been wanting. Frequently, the County finds that it must expend its own resources to unblock VDOT's drainage systems rather than wait for VDOT to perform routine maintenance which, we believe, ought to be high on VDOT's priority list.

In the 2001 General Assembly, HB 1650 and SB 1345 were introduced which would have amended Code of Virginia § 33.1-223.2:4 to require VDOT to perform all repairs required within its drainage easements, to keep drainage channels clear to permit proper water flow in order to protect not only the adjacent state road, but adjoining private properties. Unfortunately, SB 1345 remained in the Senate Transportation Committee and HB 1650 was passed by indefinitely in the House Transportation Committee. Nonetheless, we believe that this legislation is much needed and might prompt the State to perform its obligations with respect to local drainage issues. The attached sample legislation shows the desired amendments.

SB 1345 and HB 1650—Proposed amendment of § 33.1-223.2:4 regarding the maintenance of drainage easements by the Virginia Department of Transportation.

§ 33.1-223.2:4. Department to maintain drainage easements.

Whenever, in connection with or as a precondition to the construction or reconstruction of any highway, the Department shall have acquired any permanent drainage easement, the Department shall, until such time as such easement shall have been terminated, perform all repairs required, including ditches, culverts, underground pipes, and other associated structures, to clear the channel to permit proper water flow, protect both the roadway and private property, and ~~to~~ ensure the proper function of the easement ~~within the right-of-way~~ within the boundaries of such easement, both on and off highway right-of-way.

AMEND CODE OF VIRGINIA TO AUTHORIZE LOCAL DIRECTORS OF EMERGENCY MANAGEMENT TO CONTROL AND REGULATE TRAFFIC FLOWS OVER PUBLIC RIGHTS OF WAY, AND TO PROVIDE SANCTIONS FOR ANYONE WHO DISREGARDS A PROPER ORDER OR DIRECTIVE ISSUED BY A LOCAL DIRECTOR OF EMERGENCY MANAGEMENT

Chapter 3.2 of Title 44 of the Code of Virginia (Code of Virginia § 44-146.13, et seq.) sets out the procedures for responses to state and local emergencies. Local governments are required to designate a local director of emergency management to coordinate the locality's response to state and local emergencies, and authorizes the local director to (among other things) bypass the normal procedures for entering into public contracts, the incurring of obligations, the employment of temporary workers, and the purchasing of supplies and materials, in order to respond effectively and quickly to the crisis. In the event of a declaration of a state emergency, the local director must act under the supervision and control of the governor or his designated representative. However, the authority granted to local directors of emergency management under Code of Virginia § 44-146.21 is, in some respects, significantly less than the powers granted to the Governor with respect to a state emergency, despite the fact that a local emergency may be as severe to those who experience it as any state emergency. We believe that local directors of emergency management should, on the whole, have the same powers on the local level as does the Governor on a statewide level. One authority not expressly granted to local emergency directors, for example, and one which we think ought to be granted, is the authority to regulate or prohibit public access to, and traffic flows over, highways and other public rights of way within a locality during the emergency response. In the event of a need for a large scale evacuation of an area, the evacuation may be greatly aided if the local director can designate specified highways as evacuation routes with all lanes of traffic routed to allow rapid exit from an area threatened, for example, by an oncoming hurricane. The attached proposed amendments to Code of Virginia §§ 44-146.21 and 44-146.19 would accomplish these goals by making the authority of a local director of emergency management in both local and state emergencies largely equal to those of the Governor in a statewide emergency. In a state emergency, however, the local director's authority would remain subject to the "supervision and control" of the Governor or his representative, as is currently the case under § 44-146.19. In a local emergency, the local director's authority would be subject to the actions of the local governing body under the changes proposed to § 44-146.21.

Additionally, the Code of Virginia provides no sanctions for anyone who willfully violates an order or directive issued by a local director of emergency management in furtherance of his emergency powers, although a refusal to obey the Governor's order in a state

emergency is punishable as a Class 1 misdemeanor. We believe that a refusal to obey an order of a local director of emergency management should face a similar sanction, and the proposed amendment accomplishes that result. Class 1 misdemeanors are punishable by confinement in jail for up to 12 months and fines of not more than \$2,500, either or both, according to Code of Virginia § 18.2-11.

Proposed amendment to § 44-146.19 relative to the authority of a local director of emergency management in the event of a state emergency.

§ 44-146.19. Powers and duties of political subdivisions.

A. Each political subdivision within the Commonwealth shall be within the jurisdiction of and served by the Department of Emergency Management and be responsible for local disaster mitigation, preparedness, response and recovery. Each political subdivision may maintain in accordance with state disaster preparedness plans and programs an agency of emergency management which, except as otherwise provided under this chapter, has jurisdiction over and services the entire political subdivision.

B. Each political subdivision shall have a director of emergency management who, after the term of the person presently serving in this capacity has expired and in the absence of an executive order by the Governor, shall be the following:

1. In the case of a city, the mayor or city manager, who shall have the authority to appoint a coordinator of emergency management with consent of council;
2. In the case of a county, a member of the board of supervisors selected by the board or the chief administrative officer for the county, who shall have the authority to appoint a coordinator of emergency management with the consent of the governing body;
3. A coordinator of emergency management may be appointed by the council of any town to ensure integration of its organization into the county emergency management organization;
4. In the case of the Town of Chincoteague and of towns with a population in excess of 5,000 having an emergency management organization separate from that of the county, the mayor or town manager shall have the authority to appoint a coordinator of emergency services with consent of council;
5. In Smyth County and in York County, the chief administrative officer for the county may appoint a director of emergency management, with the consent of the governing body, who shall have the authority to appoint a coordinator of emergency management with the consent of the governing body.

C. Whenever the Governor has declared a state of emergency, each political subdivision within the disaster area may, under the supervision and control of the Governor or his designated representative, control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, draft and compel the evacuation of all or part of the populace from any stricken or |

threatened area if this action is deemed necessary for the preservation of life; prescribe routes, modes of transportation and destination in connection with evacuation; control ingress and egress at an emergency area, including the movement of persons within the area and the occupancy of premises therein; and regulate or prohibit public access to and the flow of vehicular and pedestrian travel over all public rights-of-way located within the political subdivision, including without limitation roads within the state primary and secondary systems of highways and the Interstate System of highways. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds. Orders and directives of the local director of emergency management issued pursuant to the authority granted by this section shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the order or directive declares that its violation shall have such force and effect.

D. The director of each local organization for emergency management may, in collaboration with other public and private agencies within this Commonwealth or within an adjacent state, develop or cause to be developed mutual aid arrangements for reciprocal assistance in case of a disaster too great to be dealt with unassisted. Such arrangements shall be consistent with state plans and programs and it shall be the duty of each local organization for emergency management to render assistance in accordance with the provisions of such mutual aid arrangements.

E. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional emergency operations plan for its area. The plan shall include, but not be limited to, responsibilities of all local agencies and shall establish a chain of command. Each political subdivision having a nuclear power station or other nuclear facility within ten miles of its boundaries shall, if so directed by the Department of Emergency Management, prepare and keep current an appropriate emergency plan for its area for response to nuclear accidents at such station or facility.

Proposed amendment of § 44-146.21 relative to the authority of a local director of emergency management in the event of a local emergency.

§ 44-146.21. Declaration of local emergency.

(a) A local emergency may be declared by the local director of emergency management with the consent of the governing body of the political subdivision. In the event the governing body cannot convene due to the disaster or other exigent circumstances, the director, or in his absence, the deputy director, or in the absence of both the director and deputy director, any member of the governing body may declare the existence of a local emergency, subject to confirmation by the governing body at its next regularly scheduled meeting or at a special meeting within fourteen days of the declaration, whichever occurs first. The governing body, when in its judgment all emergency actions have been taken, shall take appropriate action to end the declared emergency.

(b) A declaration of a local emergency as defined in § 44-146.16 (6) shall activate the local Emergency Operations Plan and authorize the furnishing of aid and assistance thereunder.

(c) [Repealed.]

(c1) Whenever a local emergency has been declared, the director of emergency management of each political subdivision or any member of the governing body in the absence of the director, if so authorized by the governing body, may control, restrict, allocate or regulate the use, sale, production and distribution of food, fuel, clothing and other commodities, materials, goods, services and resource systems which fall only within the boundaries of that jurisdiction and which do not impact systems affecting adjoining or other political subdivisions, enter into contracts and incur obligations necessary to combat such threatened or actual disaster, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster, and proceed without regard to time-consuming procedures and formalities prescribed by law (except mandatory constitutional requirements) pertaining to the performance of public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, and other expenditures of public funds, provided such funds in excess of appropriations in the current approved budget, unobligated, are available. Whenever the Governor has declared a state of emergency, each political subdivision affected may, under the supervision and control of the Governor or his designated representative, enter into contracts and incur obligations necessary to combat such threatened or actual disaster beyond the capabilities of local government, protect the health and safety of persons and property and provide emergency assistance to the victims of such disaster. In the event of a local emergency, the local director of emergency management may, if so authorized by the governing body, direct and compel evacuation of all or part of the populace from any stricken or threatened area if this action is deemed necessary for the preservation of life; prescribe routes, modes of transportation and destination in connection with evacuation; control ingress and egress at an emergency area, including the movement

of persons within the area and the occupancy of premises therein; and regulate or prohibit public access to and the flow of vehicular and pedestrian travel over all public rights-of-way located within the political subdivision, including without limitation roads within the state primary and secondary systems of highways and the Interstate System of highways. In exercising the powers vested under this section, under the supervision and control of the Governor, the political subdivision may proceed without regard to time-consuming procedures and formalities prescribed by law pertaining to public work, entering into contracts, incurring of obligations, employment of temporary workers, rental of equipment, purchase of supplies and materials, levying of taxes, and appropriation and expenditure of public funds. Orders and directives of the local director of emergency management issued pursuant to the authority granted by this section shall have the force and effect of law and the violation thereof shall be punishable as a Class 1 misdemeanor in every case where the order or directive declares that its violation shall have such force and effect.

(d) No interjurisdictional agency or official thereof may declare a local emergency. However, an interjurisdictional agency of emergency management shall provide aid and services to the affected political subdivision authorizing such assistance in accordance with the agreement as a result of a local or state declaration.

(e) None of the provisions of this chapter shall apply to the Emergency Disaster Relief provided by the American Red Cross or other relief agency solely concerned with the provision of service at no cost to the citizens of the Commonwealth.

INCREASE THE AMOUNT OF THE RETIREE HEALTH INSURANCE CREDIT FOR LOCAL AND SCHOOL BOARD EMPLOYEES

The Virginia Retirement System has a Retiree Health Insurance Credit Program that allows for a \$120 monthly credit on the health insurance premium for retirees from employment with the State. However, the maximum health credit allowed for school division retirees monthly is \$75, and for local government retirees, the maximum health credit is only \$45. We feel that the maximum health credit should be the same for employees whether or not they are employed by the state, a school division, or a local government. We request that legislation be introduced to allow all retirees from public employment to have the same health credit (currently \$120) enjoyed by state retirees.

ACTIVELY SEEK STATE FUNDING FOR A NEW PIER TO BE BUILT IN TIME FOR THE YORKTOWN 2006 AND JAMESTOWN 2007 CELEBRATIONS

York County is urging your support and approval of funding so that planned improvements in Yorktown can be completed. We are sure that you share the Board's interest in Virginia putting its best foot forward as national attention is focused on the events commemorating the 225th anniversary of the surrender of British troops at Yorktown in 2006 and the 400th anniversary of the Jamestown settlement in 2007. A very comprehensive plan for improvements in Yorktown has been developed that will allow the village to host the visitation anticipated during these events.

The County is committed to spend over \$12 million on planned improvements between now and 2006. We are pleased to have recently received \$1,107,000 in Transportation Enhancement Program awards, which have been devoted to Yorktown improvements. However, even with the grants and local funds, a pier large enough to accommodate the docking of cruise ships, and costing \$2.8 million, remains to be funded.

We believe that the proposed pier is a project that is worthy of State funding since it will promote tourism and help the Commonwealth showcase the Historic Triangle area during 2006 and 2007. Funding of the pier is now a time-sensitive matter since it needs to be completed prior to other construction activities that are already funded. It should also be noted that construction drawings are now being prepared and should be complete prior to the end of calendar year 2001.

The pier will accommodate cruise ships visiting the Historic Triangle. It will be the only pier in the Yorktown, Jamestown and Williamsburg area that can support cruise ships, several of which are already committed to visit Yorktown on an annual basis. In addition, the proposed pier will be the site for art shows and other activities that will be planned during 2006 and 2007. In short, it will be "port-of-call" for the Historic Triangle. We ask that you seek appropriate legislation to provide state assistance for this project.

AUTHORIZE A DEMONSTRATION TRAFFIC SIGNAL PHOTO-MONITORING SYSTEM

Virginia Code § 46.2-833.01 authorizes certain localities to provide by ordinance for the establishment of a demonstration program of installing traffic signal photo-monitoring systems at up to twenty-five intersections in each locality. Localities which have this authority are the cities of Virginia Beach and Richmond, Fairfax County, and all counties, cities, and towns adjacent to Fairfax. The monitoring systems identify vehicles which run red lights, for example, and authorize their owners to be notified and fined by mail.

The 2000 General Assembly passed legislation (SB 414) which would have added York County and a number of other jurisdictions to the list of localities authorized to conduct photo-monitoring, but it was vetoed by Gov. Gilmore. Numerous bills were submitted in 2001 on behalf of localities seeking authority to install such systems, but all were either defeated, or vetoed by the Governor.

The County's Transportation Safety Commission reports that this program has been successful everywhere it has been implemented. We request that legislation be introduced adding York County to those localities authorized by Virginia Code § 46.2-833.01 to have such a program. Attached is a draft code amendment which would accomplish that result.

Proposed amendment of § 46.2-833.01, to allow traffic signal photo-monitoring in York County.

§ 46.2-833.01. (Effective until July 1, 2005.) Use of photo-monitoring systems to enforce traffic light signals; penalty.

A. The governing body of any city having a population of more than 390,000, any city having a population of at least 200,000 but less than 225,000, any county having a population of at least 56,000 but less than 57,000, any county having the urban county executive form of government, any county adjacent to such county, and any city or town adjacent to or surrounded by such county except any county having the county executive form of government and the cities surrounded by such county may provide by ordinance for the establishment of a demonstration program imposing monetary liability on the operator of a motor vehicle for failure to comply with traffic light signals in such locality in accordance with the provisions of this section. Each such locality may install and operate traffic light signal photo-monitoring systems at no more than twenty-five intersections within each locality at any one time.

B. The operator of a vehicle shall be liable for a monetary penalty imposed pursuant to this section if such vehicle is found, as evidenced by information obtained from a traffic light signal violation monitoring system, to have failed to comply with a traffic light signal within such locality.

C. Proof of a violation of this section shall be evidenced by information obtained from a traffic light signal violation monitoring system authorized pursuant to this section. A certificate, sworn to or affirmed by a technician employed by a locality authorized to impose penalties pursuant to this section, or a facsimile thereof, based upon inspection of photographs, microphotographs, videotape, or other recorded images produced by a traffic light signal violation monitoring system, shall be prima facie evidence of the facts contained therein. Any photographs, microphotographs, videotape, or other recorded images evidencing such a violation shall be available for inspection in any proceeding to adjudicate the liability for such violation pursuant to an ordinance adopted pursuant to this section.

D. In the prosecution of an offense established under this section, prima facie evidence that the vehicle described in the summons issued pursuant to this section was operated in violation of this section, together with proof that the defendant was at the time of such violation the owner, lessee, or renter of the vehicle, shall constitute in evidence a rebuttable presumption that such owner, lessee, or renter of the vehicle was the person who committed the violation. Such presumption shall be rebutted if the owner, lessee, or renter of the vehicle (i) files an affidavit by regular mail with the clerk of the general district court that he or she was not the operator of the vehicle at the time of the alleged violation or (ii) testifies in open court under oath that he or she was not the operator of the vehicle at the time of the alleged violation. Such presumption shall also be rebutted if a certified copy of

a police report, showing that the vehicle had been reported to the police as stolen prior to the time of the alleged violation of this section, is presented, prior to the return date established on the summons issued pursuant to this section, to the court adjudicating the alleged violation.

E. For purposes of this section "owner" means the registered owner of such vehicle on record with the Department of Motor Vehicles. For purposes of this section, "traffic light signal violation-monitoring system" means a vehicle sensor installed to work in conjunction with a traffic light that automatically produces two or more photographs, two or more microphotographs, a videotape, or other recorded images of each vehicle at the time it is used or operated in violation of §§ 46.2-833, 46.2-835, or § 46.2-836. For each such vehicle, at least one recorded image shall be of the vehicle before it has illegally entered the intersection, and at least one recorded image shall be of the same vehicle after it has illegally entered that intersection.

F. Imposition of a penalty pursuant to this section shall not be deemed a conviction as an operator and shall not be made part of the operating record of the person upon whom such liability is imposed nor shall it be used for insurance purposes in the provision of motor vehicle insurance coverage. No monetary penalty imposed under this section shall exceed fifty dollars nor shall it include court costs.

G. A summons for a violation of this section may be executed pursuant to § 19.2-76.2. Notwithstanding the provisions of § 19.2-76, a summons for a violation of this section may be executed by mailing by first-class mail a copy thereof to the address of the owner, lessee, or renter of the vehicle as shown, in the case of vehicle owners, in the records of the Department of Motor Vehicles or, in the case of vehicle lessees or renters, in the records of the lessor or rentor. Every such mailing shall include, in addition to the summons, a notice of (i) the summoned person's ability to rebut the presumption that he was the operator of the vehicle at the time of the alleged violation through the filing of an affidavit as provided in subsection D of this section and (ii) instructions for filing such affidavit, including the address to which the affidavit is to be sent. If the summoned person fails to appear on the date of return set out in the summons mailed pursuant to this section, the summons shall be executed in the manner set out in § 19.2-76.3. No proceedings for contempt or arrest of a person summoned by mailing shall be instituted for failure to appear on the return date of the summons.

H. In any action at law brought by any person or entity as the result of personal injury or death or damage to property, such evidence derived from a photo-monitoring system shall be admissible in the same method prescribed as required in the prosecution of an offense established under this section without the requirements of authentication as otherwise required by law.

I. On behalf of a locality, a private entity may not obtain records regarding the registered owners of vehicles which fail to comply with traffic light signals. A private entity may enter

into an agreement with a locality to be compensated for providing the traffic light signal violation-monitoring system or equipment, and all related support services, to include consulting, operations and administration. However, only an employee of the locality may swear to or affirm the certificate required by subsection C.

J. The provisions of this section shall expire on July 1, 2005.

**AMEND VIRGINIA CODE § 46.2-1094 TO ALLOW
ENFORCEMENT OF ADULT SEATBELT
REQUIREMENT AS A PRIMARY OFFENSE**

Code of Virginia § 46.2-1094 requires each person at least 16 years of age and occupying the front seat of a motor vehicle to wear the appropriate safety seatbelt system at all times when the motor vehicle is in operation, provided that the motor vehicle is one which is required to be equipped with seatbelts. However, subsection (F) of § 46.2-1094 provides that no law enforcement officer can issue a citation for a violation of the adult seatbelt law unless the officer has cause to stop or arrest the driver of the motor vehicle for some other violation of law. Traffic safety statistics have demonstrated over many years that the use of seatbelts is a significant factor in the reduction of injuries and fatalities on the nation's highways. We believe that, in order to promote public safety, Virginia Code § 46.2-1094 should be amended by deleting subsection (F) as shown on the attached example.

Proposed amendment of § 46.2-1094. Primary enforcement of adult seatbelt law.

§ 46.2-1094. Occupants of front seats of motor vehicles required to use safety lap belts and shoulder harnesses; penalty.

A. Each person at least sixteen years of age and occupying the front seat of a motor vehicle equipped or required by the provisions of this title to be equipped with a safety belt system, consisting of lap belts, shoulder harnesses, combinations thereof or similar devices, shall wear the appropriate safety belt system at all times while the motor vehicle is in motion on any public highway. A child under the age of sixteen years, however, shall be protected as required by the provisions of this chapter.

B. This section shall not apply to:

1. Any person for whom a licensed physician determines that the use of such safety belt system would be impractical by reason of such person's physical condition or other medical reason, provided the person so exempted carries on his person or in the vehicle a signed written statement of the physician identifying the exempted person and stating the grounds for the exemption; or
2. Any law-enforcement officer transporting persons in custody or traveling in circumstances which render the wearing of such safety belt system impractical; or
3. Any person while driving a motor vehicle and performing the duties of a rural mail carrier for the United States Postal Service; or
4. Any person driving a motor vehicle and performing the duties of a rural newspaper route carrier, newspaper bundle hauler or newspaper rack carrier; or
5. Drivers of taxicabs; or
6. Personnel of commercial or municipal vehicles while actually engaged in the collection or delivery of goods or services, including but not limited to solid waste, where such collection or delivery requires the personnel to exit and enter the cab of the vehicle with such frequency and regularity so as to render the use of safety belt systems impractical and the safety benefits derived therefrom insignificant. Such personnel shall resume the use of safety belt systems when actual collection or delivery has ceased or when the vehicle is in transit to or from a point of final disposition or disposal, including but not limited to solid waste facilities, terminals, or other location where the vehicle may be principally garaged; or
7. Any person driving a motor vehicle and performing the duties of a utility meter reader; or
8. Law-enforcement agency personnel driving motor vehicles to enforce laws governing motor vehicle parking.

C. Any person who violates this section shall be subject to a civil penalty of twenty-five dollars to be paid into the state treasury and credited to the Literary Fund. No assignment of demerit points shall be made under Article 19 of Chapter 3 (§ 46.2-489 et seq.) of this title and no court costs shall be assessed for violations of this section.

D. A violation of this section shall not constitute negligence, be considered in mitigation of damages of whatever nature, be admissible in evidence or be the subject of comment by counsel in any action for the recovery of damages arising out of the operation, ownership, or maintenance of a motor vehicle, nor shall anything in this section change any existing law, rule, or procedure pertaining to any such civil action.

E. A violation of this section may be charged on the uniform traffic summons form.

~~F. No citation for a violation of this section shall be issued unless the officer issuing such citation has cause to stop or arrest the driver of such motor vehicle for the violation of some other provision of this Code or local ordinance relating to the operation, ownership, or maintenance of a motor vehicle or any criminal statute.~~

GF. The governing body of any city having a population of at least 66,000 but not more than 67,000 may adopt an ordinance not inconsistent with the provisions of this section, requiring the use of safety belt systems. The penalty for violating any such ordinance shall not exceed a fine or civil penalty of twenty-five dollars.

AMEND VIRGINIA CODE § 15.2-3306 TO PROHIBIT ANNEXATION PETITIONS FROM BEING FILED BY CITIES AS LANDOWNERS AGAINST COUNTIES WHICH HAVE OBTAINED COURT ORDERED IMMUNITY FROM ANNEXATION

Last year, the City of Williamsburg threatened to file a landowner annexation petition against York County to annex into the City nearly 2,500 acres of city-owned watershed located in the County. In response, the 2001 General Assembly amended Code of Virginia § 15.2-3201 to specify that, during the current annexation moratorium, no city could institute a condemnation proceeding as a landowner under those code provisions which allow landowners to seek to have their property annexed into an adjoining city. As a general matter, private landowner petitions under § 15.2-3203 are excluded from the annexation moratorium, but we believe the actions of the 2001 General Assembly make it clear that it was never the legislature's intention to allow cities to bypass the annexation moratorium through landowner petitions.

However, one other possible loophole remains in the law which might allow a city's landowner annexation petition to proceed in the event the annexation moratorium is ever lifted. Code of Virginia §§ 15.2-3300 et seq. allows counties to seek judicial determinations that they are immune from further city-initiated annexation proceedings, either because the county meets certain population density criteria or because the County provides sufficient urban type services that annexation would serve no practical benefit to the county's citizens. York County was so declared immune from city-initiated annexation in 1981 by an order of the York County Circuit Court. Nonetheless, Code of Virginia § 15.2-3306 also sets out an exception to judicial annexation immunity for owner initiated annexation proceedings under § 15.2-3203. We do not believe that the General Assembly intended that cities should be able to take advantage of this exception, but the applicable statutes unfortunately are not clear on this point. We believe that the 2002 General Assembly should close this remaining loophole, which might otherwise allow cities to bypass judicial annexation immunity through well-placed land purchases should the moratorium end. We propose an amendment to § 15.2-3306 as shown in the attached sample legislation. The amendment would retain the exemptions from judicially determined immunity for town annexations and for annexation petitions initiated by private landowners, while clarifying the legislative intent of protecting immune counties from all city initiated annexations.

Proposed amendment to § 15.2-3306, court-ordered immunity from city-initiated annexations.

§ 15.2-3306. Limitations to immunity.

A. Immunity granted by this chapter shall not be interpreted to prohibit any town annexations, or to prohibit annexations to a city initiated under the provisions of § 15.2-3203 except that no city may commence, or be a petitioner in, any such proceeding.

B. Notwithstanding other provisions of law, including § 15.2-3800, no grant of county immunity shall be interpreted to deny the right of any town, which in 1979 possessed a population in excess of 5,000 persons and was situated in a county possessing a population of 20,000 or more persons and a population density of 300 or more persons per square mile, or a population of 50,000 or more persons and a population density of 140 persons or more per square mile, based either on the United States census, on population estimates of the Weldon Cooper Center for Public Service of the University of Virginia, or on a special census conducted under court supervision, to obtain city status. Where a town seeks to become a city under the provisions of this section, the special court shall be limited in its review to a determination of the town's population and population density. Where the court determines that such town has a population of at least 5,000 persons and a density of 200 persons per square mile, it shall enter an order granting the town city status.

AMEND VIRGINIA CODE § 58.1-3700.1 RELATIVE TO BUSINESS LICENSES TO CLARIFY THAT A BUSINESS LICENSE ISSUED WITH RESPECT TO ANY CALENDAR YEAR IS DEEMED TO REMAIN VALID UNTIL MARCH 1 OF THE FOLLOWING YEAR

Code of Virginia § 58.1-3700.1 defines a "license year" for local business licenses to be a calendar year. However, Code of Virginia § 58.1-3703.1 indicates that, for a business which had been issued a local business license in a previous calendar year, the date for filing a return for the license tax in the current calendar year is March 1. Consequently, some confusion has arisen over the question of the validity of a business license between the end of the license year on December 31st and the date when the return is filed for the following year and a new license is issued. Some jurisdictions, including York County, have decided to treat all previously issued business licenses as provisionally effective until March 1 of the next year rather than to treat all licensed businesses as noncompliant as of each January 1. However, there is no statutory support for that practice, even though it appears to be the most reasonable resolution to the problem. We propose that the definition of "license year" contained in § 58.1-3700.1 should be amended, as shown on the attached sample legislation, to clarify that a "license year" is provisionally extended beyond a calendar year until March 1 of the ensuing year (or until a new license is actually issued, if sooner) to allow businesses to file proper returns and to be issued new licenses.

Proposed amendment of § 58.1-3700.1 relative to the "license year" for business licenses.

§ 58.1-3700.1. Definitions.

For the purposes of this chapter and any local ordinances adopted pursuant to this chapter, unless otherwise required by the context:

"Affiliated group" means:

1. One or more chains of corporations subject to inclusion connected through stock ownership with a common parent corporation which is a corporation subject to inclusion if:

a. Stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of each of the corporations subject to inclusion, except the common parent corporation, is owned directly by one or more of the other corporations subject to inclusion; and

b. The common parent corporation directly owns stock possessing at least eighty percent of the voting power of all classes of stock and at least eighty percent of each class of the nonvoting stock of at least one of the other subject to inclusion corporations. As used in this subdivision, the term "stock" does not include nonvoting stock which is limited and preferred as to dividends; the phrase "corporation subject to inclusion" means any corporation within the affiliated group irrespective of the state or country of its incorporation; and the term "receipts" includes gross receipts and gross income.

2. Two or more corporations if five or fewer persons who are individuals, estates or trusts own stock possessing:

a. At least eighty percent of the total combined voting power of all classes of stock entitled to vote or at least eighty percent of the total value of shares of all classes of the stock of each corporation; and

b. More than fifty percent of the total combined voting power of all classes of stock entitled to vote or more than fifty percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.

When one or more of the corporations subject to inclusion, including the common parent corporation, is a nonstock corporation, the term "stock" as used in this subdivision shall refer to the nonstock corporation membership or membership voting rights, as is appropriate to the context.

3. Two or more entities if such entities satisfy the requirements in subdivision 1 or 2 of this definition as if they were corporations and the ownership interests therein were stock.

"Assessment" means a determination as to the proper rate of tax, the measure to which the tax rate is applied, and ultimately the amount of tax, including additional or omitted tax, that is due. An assessment shall include a written assessment made pursuant to notice by the assessing official or a self-assessment made by a taxpayer upon the filing of a return or otherwise not pursuant to notice. Assessments shall be deemed made by an assessing official when a written notice of assessment is delivered to the taxpayer by the assessing official or an employee of the assessing official, or mailed to the taxpayer at his last known address. Self-assessments shall be deemed made when a return is filed, or if no return is required, when the tax is paid. A return filed or tax paid before the last day prescribed by ordinance for the filing or payment thereof shall be deemed to be filed or paid on the last day specified for the filing of a return or the payment of tax, as the case may be.

"Base year" means the calendar year preceding the license year, except for contractors subject to the provisions of §58.1-3715 or unless the local ordinance provides for a different period for measuring the gross receipts of a business, such as for beginning businesses or to allow an option to use the same fiscal year as for federal income tax purposes.

"Business" means a course of dealing which requires the time, attention and labor of the person so engaged for the purpose of earning a livelihood or profit. It implies a continuous and regular course of dealing, rather than an irregular or isolated transaction. A person may be engaged in more than one business. The following acts shall create a rebuttable presumption that a person is engaged in a business: (i) advertising or otherwise holding oneself out to the public as being engaged in a particular business or (ii) filing tax returns, schedules and documents that are required only of persons engaged in a trade or business.

"Definite place of business" means an office or a location at which occurs a regular and continuous course of dealing for thirty consecutive days or more. A definite place of business for a person engaged in business may include a location leased or otherwise obtained from another person on a temporary or seasonal basis and real property leased to another. A person's residence shall be deemed to be a definite place of business if there is no definite place of business maintained elsewhere and the person is not subject to licensure as a peddler or itinerant merchant.

"Entity" means a business organization, other than a sole proprietorship, that is a corporation, limited liability company, limited partnership, or limited liability partnership duly organized under the laws of the Commonwealth or another state.

"Financial services" means the buying, selling, handling, managing, investing, and providing of advice regarding money, credit, securities, or other investments.

"Gross receipts" means the whole, entire, total receipts, without deduction.

"License year" means the calendar year for which a license is issued for the privilege of engaging in business. However, a license issued with respect to any calendar year by any

city, county or town pursuant to the authority granted by this chapter shall, unless otherwise terminated, be deemed valid until March 1 of the ensuing calendar year, or until such time as the licensee properly applies for a license for such ensuing year, whichever shall first occur.

"Professional services" means services performed by architects, attorneys-at-law, certified public accountants, dentists, engineers, land surveyors, surgeons, veterinarians, and practitioners of the healing arts (the arts and sciences dealing with the prevention, diagnosis, treatment and cure or alleviation of human physical or mental ailments, conditions, diseases, pain or infirmities) and such occupations, and no others, as the Department of Taxation may list in the BPOL guidelines promulgated pursuant to § 58.1-3701. The Department shall identify and list each occupation or vocation in which a professed knowledge of some department of science or learning, gained by a prolonged course of specialized instruction and study, is used in its practical application to the affairs of others, either advising, guiding, or teaching them, and in serving their interests or welfare in the practice of an art or science founded on it. The word "profession" implies attainments in professional knowledge as distinguished from mere skill, and the application of knowledge to uses for others rather than for personal profit.

"Purchases" means all goods, wares and merchandise received for sale at each definite place of business of a wholesale merchant. The term shall also include the cost of manufacture of all goods, wares and merchandise manufactured by any wholesale merchant and sold or offered for sale. A wholesale merchant may elect to report the gross receipts from the sale of manufactured goods, wares and merchandise if it cannot determine the cost of manufacture or chooses not to disclose the cost of manufacture.

"Real estate services" means providing a service with respect to the purchase, sale, lease, rental, or appraisal of real property.

THE COMMONWEALTH SHOULD INCREASE ITS SUPPORT FOR VIRGINIA'S TOURISM INDUSTRY

Tourism has long been one of Virginia's main industries, bringing in approximately \$13.4 billion in traveler spending to the state's economy in 2000. Of that amount, approximately \$750 million was spent in the Historic Triangle area of Williamsburg, Jamestown and Yorktown on lodging, meals, entertainment, retail sales, and transient room occupancy. And yet, the level of tourism that has been attracted to the Peninsula has remained largely static for a number of years, as evidenced not only by dollars spent, but also by visits logged in to identifiable tourist destinations such as the Yorktown National Battlefield visitor center. The horrible events of September 11, and the resulting economic uncertainty, have combined to threaten costly and long-lasting injury to this vital industry. We believe that the state's expenditures for the promotion and development of tourism should be expanded. In light of the current crisis, there should be an immediate and substantial increase in state expenditures for tourism-related advertising in order to remind the public that Virginia's historic and recreational attractions are merely an automobile ride away for millions of Americans, and that our destinations are safe. There should also be an increase in the budget for the Virginia Cooperative Marketing Fund (currently funded at \$6,000,000) which provides matching grants to organizations such as visitors bureaus and Chambers of Commerce for tourism-related advertising.

PART II

SUMMARY OF LEGISLATIVE POLICIES

INCREASE STATE FUNDING TO LOCALITIES FOR NEW AND EXISTING STATE MANDATED PROGRAMS

The State has enacted many new programs, in addition to the hundreds of existing ones, mandating the provision by local governments of services which are either unfunded or under funded by the Commonwealth. The State has for many years acted as a partner with local government to fund certain services. With State priorities shifting, this partnership has been neglected. The primary areas to which increased State funding should be directed to revitalize the State/local partnership are:

- Constitutional Offices, particularly the Sheriff's Office. In FY 1997, County expenditures for all Constitutional Offices were \$5.86 million, of which the State reimbursed \$2.57 million or 43.9%; in FY 2001 the total spent on Constitutional Offices was \$7.3 million and the State contributed \$3.1 million or 45.5%. These figures have remained relatively consistent since 1994, even though the Code of Virginia requires the Commonwealth to bear one-half the cost of the salaries and expenses of the Treasurer and of the Commissioner of the Revenue, and all of the salaries and expenses for the Sheriff and the Commonwealth's Attorney.
- Social Services (including such services as: child abuse prevention, foster care, and foster care prevention, mental health programs; administrative costs, and office space funding). Specifically, the costs of the Comprehensive Services Act have risen dramatically since its inception. In FY94, the total local cost of the Act to York County was \$42,337. By FY01, these costs have risen to \$228,041. This is exclusive of the extremely complicated costs of administration incurred by the School Division, the County's fiscal management staff, the Department of Social Services, and the Director of Community Services.
- Human Services. Prior to implementing a new funding formula for juvenile detention, State funding was not capped, and the State paid for between 60% to 80% of the costs, including 50% of construction costs, 2/3 of salaries and 100% of operations. Now this has been reversed, and for all practical purposes, the local share is now roughly 80%. See the detailed discussion on human services issues which is attached for more examples.
- Libraries. The State budget should be amended to restore full funding to the State Aid to Public Libraries Program.

- Implementation of State recycling mandates. In FY 1989, the County spent nothing on recycling. In the current fiscal year, it will spend approximately \$1 million to meet State mandated requirements.

The General Assembly has been able to balance the State budget without a general tax increase in part by shifting the cost of programs such as education, law enforcement, and human services to local governments. We feel that it is time for the State to reestablish its commitment to a partnership with local government to provide services to the citizens of the Commonwealth.

INCREASE STATE FUNDING OF THE TRUE COSTS OF EDUCATION

School capital needs (construction, renovation, and modernization) are significantly impacted by State mandates such as reduction of class size, special educational programs and compliance with the Standards of Quality (SOQ). While the State has set aside some funding for capital needs, the County expects to receive only \$1.1 million during this fiscal year from the State for this purpose. Prior to the school construction funding and the lottery proceeds in the last biennium, all construction was funded locally. Over the last seven years, York County has spent over \$65 million for capital construction and building renovations. The school construction funding and the lottery proceeds over that same six-year period were \$3.3 million. While those two areas have helped, more needs to be done. The maintenance funding at \$15 per student is a small portion of the actual cost of maintaining our school buildings. The school division operating budget for operating and maintaining buildings in FY02 is \$8.2 million. The State maintenance funding for FY02 is \$0.1 million.

The State should revise the concept of the Standards of Quality to recognize the public demand for quality education in Virginia is far in excess of the low minimum standards established by the SOQs. Although the Commonwealth bases its funding of local education on the SOQs, those standards do not begin to recognize the actual educational needs of Virginia localities. York County is probably typical among Virginia jurisdictions in providing 141% or \$12.3 million more than the required amount of local funding for the operation of its schools, simply because the citizens of York County would never be satisfied with the level of public education which merely met, and did not significantly exceed, the levels established by the SOQs. Including debt service and capital outlay, the locality provides 190% or \$16.3 more than the required SOQ funding amount.

State funding mechanisms do not recognize actual teacher salaries in York County or the full extent of costs for special education, technology, or other significant components of any quality educational program. For example, in FY01 total actual special education costs in York County totaled \$7.1 million. For that same fiscal year, State funding for special education was \$2 million or less than 30% of the total cost. Additionally, over the past six years York County has spent more than \$20 million on hardware and infrastructure for instructional technology. The state provided \$2.6 or 13% of that funding. The remaining \$17.4 million was funded by the citizens of York County.

OVERHAUL THE COMMONWEALTH'S TAX STRUCTURE

We applaud the General Assembly's efforts to overhaul the Commonwealth's tax structure. We believe the State's tax structure needs close scrutiny and significant changes. The current tax structure is a hodgepodge developed over many years, and is based on an industrial/agricultural economy which no longer exists in Virginia.

In general, York County supports the preliminary proposals which recognize, among other things, that local governments should not be expected to bear a disproportionate burden of the implementation of statewide policies. It is our belief that the General Assembly should continue its efforts to construct a wholesale, comprehensive, and unified approach to a review of the Commonwealth's tax structure, and until such a review can be completed, to avoid making piecemeal changes to the tax statutes which limit local taxing authority. Among other things, the County draws your attention to the Commission's recognition that the State should provide greater fiscal assistance to localities for education; that the State should assume full responsibility for the funding of all essential services provided through the Comprehensive Services Act, public health departments, community services boards, local and regional jails, and social services departments; and that the taxing authority for Virginia's counties and cities should be equalized.

MAXIMIZE STATE FUNDING FOR PRIORITY REGIONAL TRANSPORTATION PROJECTS IN HAMPTON ROADS

The local governments of the entire Hampton Roads area, together with the Hampton Roads Planning District Commission, have adopted a priority list of six major transportation projects identified as essential to the continuation of the region's economic growth. The six projects identified as having the highest priority are as follows:

- Improvements to Interstate 64 between Route 199 and Interstate 664
- Upgrading of Route 460 between Petersburg and Suffolk from a four-lane nondivided highway to an interstate type facility.
- A Hampton Roads third crossing, including a new I-664 tunnel connecting downtown Newport News with South Hampton Roads, the enlargement of the Monitor Merrimac Memorial Bridge Tunnel, a new tunnel from current I-564 to the existing Monitor Merrimac Memorial Bridge Tunnel, and other improvements
- Southeastern Parkway and Greenbelt, consisting of a new east-west link between I-264 in Virginia Beach and the Oakgrove Connector in Chesapeake.
- Midtown tunnel/Martin Luther King Freeway/Pinners Point Interchange, consisting of a second midtown tunnel between Norfolk and Portsmouth and other improvements to link the midtown tunnel with the Martin Luther King Freeway, and an extension of the Martin Luther King Freeway.
- Light rail, high speed rail, and enhanced bus services for both the Peninsula and Southside Hampton Roads.

The total cost of these six priority projects to the Hampton Roads communities is estimated to be \$3,200,000,000. However, the Virginia Transportation Act of 2000 provided only a total of \$207,100,000 over six years to address the needs, something less than 10% of the total cost of the projects. Regional cooperative planning efforts of the sort which produced the Hampton Roads Regional Transportation Plan ought to receive substantial financial funding from the Commonwealth. The 2002 General Assembly must recognize that the Virginia Transportation Act of 2000 is only a first step toward meeting the region's exploding transportation needs. We ask for full funding of the entire cost of all six projects.

Also, we support the recommendations of the "371 Committee," formed pursuant to Senate Joint Resolution SJR 371 (2001 General Assembly) to study the funding of transportation projects in Hampton Roads. A copy of the Committee's report setting out those recommendations is attached.

**MAKE CHANGES TO STATE PROGRAMS THAT
ENHANCE THE EFFECTIVENESS OF PUBLIC
EXPENDITURES—DON'T INCREASE LOCAL
RESPONSIBILITIES AND SHIFT THE COST WHILE AT
THE SAME TIME REDUCING STATE SERVICES AND
FUNDING**

There has been a recent trend toward shifting programs that were traditionally operated by the state government to local governments. This can be seen in the ongoing restructuring of health and social services programs, in the provision of mental health services, substance abuse clients on Medicaid, juvenile offender programs, and the Comprehensive Services Act. This is customarily described as increasing local control and local flexibility. Program monies may transfer but there is a significant increase in the direct and indirect costs of administration that are being passed on to local governments.

The current changes to systems traditionally funded or operated, or both, by state and federal agencies are intense and extreme. It is extremely important to recognize and analyze the changes and, to the extent possible, define the intended and unintended consequences of these changes on the local level.

The traditional systems of human service delivery and their accompanying funding streams are a case in point. They are undergoing dramatic and comprehensive change in an intensive time frame. Some of the issues and concerns that County staff have identified in just the human services area are outlined in the attached summary entitled "Human Services Legislative Issues 2001-02."



County of York

Human Services Legislative Issues 2001-02

York County staff has identified the following areas as current Human Services Legislative concerns. Based upon recent trends and experiences during previous sessions of the General Assembly, the following issues should be considered as the County prepares for the coming session:

■ **Mental Health:**

Behavioral Health Care must be accomplished through both a state-wide, Commonwealth operated system and an adequately funded community based system of care.

Issue: **The Commonwealth should maintain, fully fund and continue to operate a Statewide Mental Health System, to include residential facilities for long-term care of adults and adolescents.**

Issue: **The Commonwealth should provide funding sufficient to allow Community Services Boards to adequately meet the charge of providing a community based system of care.**

During recent years there has been a continuing trend toward reorganization and downsizing of the State Mental Health care system. It is important to recognize that such downsizing has both a service and financial impact on localities.

- ◆ Current patients should not be released into the community without state funding sufficient to pay for service needs.
- ◆ The state presently pays for its institutions. After closing or significantly downsizing, there will no longer be any ability to hospitalize patients in a state facility. Localities should be very concerned about where those in need of psychiatric hospitalization will go in the future and who will be responsible for payments for that care.
- ◆ All adolescent units have closed with the exception of Dejarnette, which is a short-term (6 weeks) diagnostic facility. This leaves the ever-increasing numbers of very seriously disturbed children no alternatives for residential care other than expensive private placements, usually cooperatively funded by state-local governments under the Comprehensive Services Act (CSA).

- ◆ Proposals have been made for use of closed state mental health facilities in whole or in part, as residential care facilities for CSA placements. These proposals variously suggest
 - a) making the facilities available to private providers: which would seem to divert public resources to for-profit activities without any indications that adequate assurance of a reduction in public costs could be secured.
 - or
 - b) having local governments operate the facilities as community based services: which has public policy implications for the shift from a state administered mental health system to a locally run and funded mental health system with diverse standards of care.

Some services are best run statewide. This is particularly true of a mental health system. The facilities should be used as residential care facilities but should be operated by the Commonwealth.

- ◆ York must be prepared to endorse community care only if sufficient funding is provided to adequately manage the decentralization of mental health services.

■ **Mental Health, Substance Abuse and the Criminal Justice System:**

Issue: **The absence of sufficient funding for community based care; prevention programs and adequate mental health inpatient treatment facilities has had a critical impact on the criminal justice system.**

Background

The Commonwealth assigns responsibilities for mental health care and substance abuse treatment to the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) and through that agency to Community Service Boards (CSBs). During recent years there has been a continuing trend toward reorganization and downsizing of the State Mental Health care system. Community based treatment programs are not adequately funded. Adult inpatient treatment facilities have been drastically down-sized, returning patients to the community and greatly limiting access to inpatient treatment. With the exception of a short-term diagnostic center, all adolescent units have been closed, leaving ever-increasing numbers of very seriously disturbed children with no alternatives for inpatient treatment care other than expensive private placements, if at all.

Left untreated, mental health disorders and substance abuse frequently result in behaviors that bring individuals to the attention of law enforcement agencies and the Courts. Disturbed adults and juveniles are being found in increasing numbers in corrections facilities rather than mental health facilities.

Community Service Boards have no resources to assign to secure facilities for treatment. Local corrections staff are becoming mental health and substance abuse services deliverers. Local governments are increasingly funding treatment professionals within adult jails and in secure and other residential juvenile facilities.

Conclusion: By default, corrections facilities are becoming mental health treatment centers.

Recommendations:

It is the responsibility of the Commonwealth to provide for behavioral health care in an appropriate mental health system not a corrections environment. The Commonwealth must assure the delivery of this care by operating a statewide system of inpatient treatment centers and by adequately funding a community based system of care.

- ◆ **The Commonwealth should maintain, fully fund and continue to operate a Statewide Mental Health System, to include inpatient treatment facilities for long-term care of adults and adolescents.**
- ◆ **The Commonwealth should provide funding sufficient to allow Community Services Boards to adequately meet the charge of providing a community based system of care.**

Additionally, the Commonwealth should:

1. Codify and assign to the Department of Mental Health, Mental Retardation and Substance Abuse Services (DMHMRSAS) responsibilities for the coordination of services to those who are in secure facilities.

- (a) The population to be served should be clearly defined.
- (b) A comprehensive array of services should be available to incarcerated persons covering a range of options including inpatient care when needed.
- (c) This should be accompanied by funding, with clear policies, regulations and funding streams.
- (d) Language should be included in the annual Community Services Boards Performance Contract defining DMHMRSAS responsibilities and those to be carried out by local CSBs.
- (e) Policy, regulations and funding streams should be consistent with jail and detention center certifications.
- (f) Should provide for local flexibility in the selection of the model for service delivery.
- (g) DMHMRSAS should provide for the coordination of care.

- 2. Expand prevention services, care and coordination of after care. DMHMRSAS should reinstate juvenile inpatient mental health and substance abuse treatment facilities.**
- 3. Assure adequate access to inpatient care for the transfer of adult offenders from jails to mental health facilities.**
- 4. Provide increased level of funding to Community Services Boards for community based care.**

■ **Comprehensive Services Act (CSA)**

Since 1992, state funds to support services for serious dysfunctional children and their families have been pooled in a single revenue stream and identified as the Comprehensive Services Act (CSA). These funds have a required local government match that can reach 45%. York's match is 38.888%.

The CSA has resulted in:

- an increased administrative burden on participating localities
- loss of incentive to control costs at the agency level
- increased difficulty predicting necessary funding levels
- blurred lines of responsibility and fiscal accountability
- contributed to increased local cost of providing services

Local governments have found the CSA to be an urgent common concern. This is true for both service and funding issues.

A CSA Local Government State Wide Work Group was established in March of 1999, and is chaired by York's Community Services Director. This work group has official representation from 71 local governments and four state-wide local government associations:

- Virginia Association of Counties (VACO)
- Virginia Municipal League (VML)
- Virginia Association of Local Human Services Officials (VALHSO)
- League of Social Services Executives

The Work Group collaborated very closely with General Assembly members and staff; the Secretary of Health and Human Resources and others in advance and during the 2000 session. HB1510 (Morgan) was adopted by the 2000 General Assembly to clarify the structure and accountability of the CSA on the state level. Various budget amendments were intended to provide additional, critically needed funding. This represented significant progress. Current concerns include the following:

- ▶ ☐ The Commonwealth developed a budget predicated on the use of Medicaid with unrealistic targets. Families have not met the Medicaid eligibility criteria and there is a serious shortfall in the current state budget (**estimates have ranged from \$12.5 million to \$50+ million**). **When the 2001 General Assembly adjourned without adopting a budget that shortfall was not filled.**
 - ▶ ☐ Maintain the distinction between mandated and non-mandated children to be served with CSA funds and keep service to non-mandated populations a local option.
 - ▶ ☐ Support adequate Mental Health community care resources and residential placement options.
1. Recognize the high cost of residential treatment that has resulted from the closing of state run mental health facilities and the transfer of portions of the costs to local governments under the CSA.
 2. Maintain or reduce the 45% cap on local match.
 3. Recognize the intense administrative burdens on local governments that accompany the implementation of the CSA and increase the administrative reimbursement to localities.
 4. Remove the local match requirement for Medicaid that was imposed in 2000 in the CSA – in all other areas Medicaid is a state and federal funded program and the CSA is the only instance of required local government Medicaid match.

■ **Juvenile Justice System:**

Issue: **Support the following fiscal positions:**

Address the issue of equitable cost sharing for juvenile detention.

- ◆ **Recommend Commonwealth support for operating costs at \$30,850 per bed per year**, with an adjustment linked to the consumer price index.
- ◆ **Increase State reimbursement for post-dispositional sentencing.**
 - Post-dispositional sentencing results in juveniles being sent to local detention facilities rather than the State for up to six months.
 - Localities must pay the costs associated with the detention of these juveniles.
 - Savings realized by the State (which would otherwise be responsible for these juveniles) should be passed along to localities.
- ◆ **State ward per diem**
 - When juveniles are sentenced to the State Department of Juvenile Justice, they are housed in local facilities until they are picked up by the State.

- The State currently reimburses localities for housing these juveniles from the “date of acceptance.” Commonly this date is the same as the date the juveniles are picked up. Reimbursement should be made based on the date of sentencing.
- State ward per diem rates vary across localities. Rates should be based on expenses. It is currently unknown what basis is used to determine State per diem ward rates.

◆ **Maintain the Virginia Juvenile Community Crime Control Act (VJCCCA) as a separate program**

■ **General Issues to Monitor:**

◆ **Aging and Health:**

- With the general aging of the population, adult homes and assisted living facilities are becoming increasingly important. The General Assembly should review the current situation and provide direction to the appropriate state agencies for implementation of comprehensive standards of care for adult homes and assisted living facilities.
- It has become increasingly difficult to secure Certified Nurse Aids (CNA) and training programs are closing due to lack of students. Residential facilities, hospitals and in-home care for the elderly depend on CNAs and a shortage will have serious impact on both the availability and cost of care. This is directly attributable to the very low prevailing wage rates, poor working conditions and, customarily, the absence of benefits.